



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
(503) 229-5696
FAX (503) 229-5100
TTY 711

December 14, 2023

CERTIFIED MAIL: 7014 2120 0001 8302 9774

Columbia Industries, LLC
c/o Susan McCarty, Registered Agent
5775 NE Wagon Drive
Hillsboro, OR 97124

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/SW-NWR-2023-594

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued Columbia Industries, LLC a civil penalty of \$10,400 for violating the monitoring and reporting requirements set forth in the National Pollutant Discharge Elimination System (NPDES) 1200-Z General Permit for industrial stormwater discharges at its facility located in Hillsboro, Oregon. Specifically, Columbia Industries, LLC failed to submit a timely Discharge Monitoring Report (DMR) in November 2022 and failed to analyze two pH samples within 15 minutes of when the samples were collected, rendering the results unreliable.

DEQ issued this penalty because in the preceding three years, Columbia Industries, LLC received multiple warning letters and has been the subject of one prior enforcement case (Case No. WQ/SW-NWR-2022-607) relating to monitoring and reporting violations. Monitoring and timely reporting are important conditions of the 1200-Z Permit. Monitoring may reveal the presence of harmful levels of pollutants that pose a threat to waters of the state. In addition, monitoring allows permittees and DEQ to gauge the effectiveness of stormwater controls and best management practices implemented to reduce the levels of pollutants in discharges.

You may pay the civil penalty as follows:

Pay online with e-check (ACH) or Credit Card. Go to Your DEQ Online here: <https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on your account dashboard. Enter the Invoice number and Account ID included on the attached payment slip. Note: US Bank charges a 2.3% convenience charge for credit card transactions. ACH payments have no additional charges.

Pay by check or money order: Make checks payable to "Department of Environmental Quality" and mail to the address on the enclosed payment slip. Please make sure to include the payment slip with your check or money order.

If you wish to appeal this matter, DEQ must receive a request for a hearing within 20 calendar days from your receipt of this letter. The hearing request must be in writing. Send your request to DEQ Office of Compliance and Enforcement:

Via mail – 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232

Via email – DEQappeals@deq.state.or.us

Via fax – 503-229-5100

Once DEQ receives your request, we will arrange to meet with you to discuss this matter. If DEQ does not receive a timely written hearing request, the penalty will become due.

The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions for appealing the penalty. Please review and refer to it when discussing this case with DEQ.

DEQ may allow you to resolve part of your penalty through the completion of a Supplemental Environmental Project (SEP). SEPs are environmental improvement projects that you sponsor instead of paying a penalty. Further information is available by calling the number below or at <http://www.oregon.gov/deq/Regulations/Pages/SEP.aspx>.

DEQ's rules are available at <http://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx> or by calling the number below.

If you have any questions, please contact Erin Saylor at 503-229-5422 or toll free in Oregon at 800-452-4011, extension 5422.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Alexander Svendsen, Clean Water Services (via email to: SvendsenA@CleanWaterServices.org)
Accounting, DEQ

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF:

COLUMBIA INDUSTRIES, LLC.

Respondent.

NOTICE OF CIVIL PENALTY
ASSESSMENT AND ORDER

CASE NO. WQ/SW-NWR-2023-594

I. AUTHORITY

The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140, ORS Chapter 468B, ORS Chapter 183 and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, and 045.

II. FINDINGS OF FACT

1. Respondent is the owner and operator of a facility located at 5775 NW Wagon Way in Hillsboro, Oregon (the Facility).

2. The Facility has coverage under the National Pollutant Discharge Elimination System (NPDES) 1200-Z General Permit for industrial stormwater discharges (the Permit) under File No. 115510. Respondent's coverage under the Permit was in effect at all material times.

3. Pursuant to Schedule B, Tables 4 and 6 of the Permit, Respondent must monitor its stormwater for certain benchmark pollutants, including pH, four times per year: two samples between January 1 and June 30, and two samples between July 1 and December 31.

4. Pursuant to Schedule B, Table 7 of the Permit, Respondent must submit Discharge Monitoring Reports (DMRs) to DEQ quarterly. 1st Quarter reports are due by November 15; 2nd Quarter reports are due by February 15; 3rd Quarter reports are due by May 15; and 4th Quarter reports are due by August 15.

5. During the 2022-23 monitoring year, Respondent submitted its 1st Quarter DMR on November 16, 2022.

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6. Pursuant to Schedule B, Condition 7.e. of the Permit, “pH sampling must be done by either measuring the pH directly in the flow, or analyzing the sample within 15 minutes of sample collection.”

7. The analytical report Respondent submitted with its 2nd Quarter DMR for the 2022-2023 monitoring period indicated that pH samples had been collected on October 31, 2022, and November 25, 2022, but were not analyzed until November 2, 2022, and November 28, 2022, respectively.

8. Pursuant to Schedule F, Section A1. of the Permit, failure to comply with any permit condition is a violation of ORS 468B.025.

9. Pursuant to ORS 468B.025(2), no person shall violate the conditions of any waste discharge permit issued under ORS 468B.050.

III. CONCLUSIONS

1. Respondent violated ORS 468B.025(2) and Schedule B of the Permit by failing to collect monitoring data in conformance with the sampling procedures set forth in the Permit. Specifically, as described in Section II, Paragraphs 6 and 7 above, on two occasions Respondent failed to analyze its monitoring sample for pH within 15 minutes of when the sample was collected. These failures rendered the results unreliable, such that it was as if the samples had not been taken. These are Class I violations pursuant to OAR 340-012-0055(1)(o). DEQ hereby assesses a \$7,200 civil penalty for these violations.

2. Respondent violated ORS 468B.025(2) and Schedule B of the Permit by failing to submit a First Quarter DMR by November 15, as described in Section II, Paragraphs 4 and 5 above. This is a Class II violation pursuant to OAR 340-012-0055(2)(b). DEQ hereby assesses a \$3,200 civil penalty for this violation.

IV. ORDER TO PAY CIVIL PENALTY

Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is hereby ORDERED TO:

Pay a civil penalty of \$10,400. The determination of the civil penalty is attached as Exhibit Nos. 1–2 and is incorporated as part of this Notice.

1 If you do not file a request for hearing as set forth in Section V below, please pay the penalty as follows:

2 Pay online with e-check (ACH) or Credit Card. Go to Your DEQ Online here:
3 <https://ydo.oregon.gov>. Select Register Account or Login, then select Pay Invoices/Fees on your account
4 dashboard. Enter the reference number and Account ID included on the attached payment slip. Note: US
5 Bank charges a 2.3% convenience charge for credit card transactions. ACH payments have no additional
6 charges.

7 Pay by check or money order: Make checks payable to "Department of Environmental Quality"
8 and mail to the address on the enclosed payment slip. Please make sure to include the payment slip with
9 your check or money order and note the case number on your check.

10 V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

11 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
12 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
13 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
14 exhibits, you must do so in your request for hearing, as factual matters not denied will be considered
15 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
16 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
17 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
18 it to **503-229-5100** or email it to **DEQappeals@deq.state.or.us**. An administrative law judge
19 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
20 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
21 represented by an attorney at the hearing, however you are not required to be. If you are an individual,
22 you may represent yourself. If you are a corporation, partnership, limited liability company,
23 unincorporated association, trust or government body, you must be represented by an attorney or a duly
24 authorized representative, as set forth in OAR 137-003-0555.

25 Active duty Service members have a right to stay proceedings under the federal Service
26 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-452-8260, the
27 Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal

1 Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not
2 have a toll free telephone number.

3 If you fail to file a timely request for hearing, the Notice will become a final order by default
4 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later
5 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the
6 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates
7 the relevant portions of its files, including information submitted by you, as the record for purposes of
8 proving a prima facie case.

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12 12 / 14 / 2023
13 Date


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15 Kieran O'Donnell, Manager
16 Office of Compliance and Enforcement
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EXHIBIT 1

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-012-0045

VIOLATIONS: Respondent violated ORS 468B.025(2) and Schedule B of the Permit by failing to collect and analyze pH samples in conformance with the sampling procedures set forth in the Permit.

CLASSIFICATION: These are Class I violations pursuant to OAR 340-012-0055(1)(o).

MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 applicable to this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$

"BP" is the base penalty, which is \$4,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(iii) because Respondent has coverage under the 1200-Z General Permit.

"P" is whether Respondent has any prior significant actions (PSAs), as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives a value of 2 according to OAR 340-012-0145(2)(a)(C) because Respondent had one prior Class I water quality violation in Case No. WQ/SW-NWR-2022-607.

"H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(d) because there is insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing, and receives a value of 2 according to OAR 340-012-0145(4)(b) because there were two occurrences of the violation. Respondent failed to promptly analyze two samples for pH.

"M" is the mental state of the Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. Respondent has a copy of the permit that clearly sets forth the sampling requirements; by failing to follow those sampling requirements Respondent failed to take reasonable care to avoid the foreseeable risk a violation would occur.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 0 according to OAR 340-012-0145(6)(f) because the violation or the effects of the violation could not be corrected or minimized.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of 0 according to OAR 340-012-0150(4) because there is insufficient information on which to make an estimate under the rule.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
= \$4,000 + [(0.1 x \$4,000) x (2 + 0 + 2 + 4 + 0)] + \$0
= \$4,000 + [\$400 x 8] + \$0
= \$4,000 + \$3,200 + \$0
= \$7,200

EXHIBIT 2

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-012-0045

VIOLATION: Respondent violated ORS 468B.025(2) and Schedule B of the Permit by failing to submit a timely DMR for the 1st Quarter of the 2022-23 monitoring year.

CLASSIFICATION: This is a Class II violation pursuant to OAR 340-012-0055(2)(b).

MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 applicable to this violation, and the information reasonably available to DEQ does not indicate a minor or major magnitude.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$

"BP" is the base penalty, which is \$2,000 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(iii) because Respondent has coverage under the 1200-Z General Permit.

"P" is whether Respondent has any prior significant actions (PSAs), as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives a value of 2 according to OAR 340-012-0145(2)(a)(C) because Respondent had one prior Class I water quality violation in Case No. WQ/SW-NWR-2022-607.

"H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(d) because there is insufficient information on which to base a finding under paragraphs (3)(a) or (b).

"O" is whether the violation was repeated or ongoing, and receives a value of 0 according to OAR 340-012-0145(4)(a) because there was only one occurrence of the violation.

"M" is the mental state of the Respondent and receives a value of 4 according to OAR 340-012-0145(5)(c) because Respondent's conduct was negligent. Respondent has a copy of the permit that clearly sets forth the reporting deadlines. Additionally, in the preceding two years, Respondent received two warning letters for late DMR submissions. Thus, by failing to file its DMR by the deadline, Respondent failed to take reasonable care to avoid the foreseeable risk a violation would occur.

"C" is Respondent's efforts to correct or mitigate the violation and receives a value of 0 according to OAR 340-012-0145(6)(f) because, although Respondent did submit the DMR eventually, the fact that it was submitted late could not be corrected.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of 0 according to OAR 340-012-0150(4) because there is insufficient information on which to make an estimate under the rule.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$

$$\begin{aligned} &= \$2,000 + [(0.1 \times \$2,000) \times (2 + 0 + 0 + 4 + 0)] + \$0 \\ &= \$2,000 + [\$200 \times 6] + \$0 \\ &= \$2,000 + \$1,200 + \$0 \\ &= \$3,200 \end{aligned}$$

Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100



State of Oregon
Department of Environmental Quality

Phone: 503-229-5437
Fax: 503-229-5850

CIVIL PENALTY - ORS 468.135(2)

DATE:	December 14, 2023
RESPONSE DATE :	February 22, 2024
TOTAL PENALTY:	\$10,400.00

Account Name:	COLUMBIA INDUSTRIES, LLC <COLUMBIA INDUSTRIES, LLC> <115510>		
Account Type:	Vendor/Organization/Company	Reference Number:	CPGFD2400027
SubSystem ID:	179865	FIMS Acct. ID:	5009

Penalty Summary

Penalty Amount	Interest	Adjustment	Amount Paid	Total Penalty
\$ 10,400.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 10,400.00

Payment of this penalty is subject to the exercise of your options or right to appeal as described in the enclosed enforcement documents.

To Pay Online with ACH or Credit Card Visit <https://ydo.oregon.gov> and select 'Register Account'



PLEASE RETURN THIS PORTION WITH YOUR PAYMENT



REFERENCE NO.	CPGFD2400027		
PAYCODE:	00401 7400 10040 74001 0500 000000 00		
FEE PROGRAM ID:	950	RESPONSE DATE:	February 22, 2024
FIMS ACCT. ID:	5009	TOTAL PENALTY DUE:	\$10400.00

AMOUNT ENCLOSED:

MAKE CHECK PAYABLE TO: Department of Environmental Quality

☐

Check this box if updated address information has been provided on the back of the form.

DEQ FINANCIAL SERVICES - LBX4244
PO BOX 4244
PORTLAND OR 97208-4244

00401 7400 10040 74001 0500 000000 0095000050090CPGF240002700010400000



State of Oregon
Department of
Environmental
Quality

State of Oregon Department of Environmental Quality

CIVIL PENALTY - ORS 468.135(2)

700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
Phone: 503-229-5437
Fax: 503-229-5850

Penalty Detail

Transaction Date	Description	Amount
12/13/2023	2023-594 WQ-SW-NWR-2023-594	\$10,400.00

SFMS Agencies Use:

Trans Code	Treasury Fund	SFMS	Index	PCA (5)	Agency Object	Project #	Phase
723	00401	7400	10040	74001	0500	00000	00

Address Changes

Please visit <https://ydo.oregon.gov> to update
your mailing address online or provide the
following information:

Name _____
Address _____
City, State, Zip _____